

between the Plaintiff and all properly joined defendants, the amount in controversy exceeds \$75,000, and all other requirements for removal have been met. On July 17, 2017, this Court granted Defendants' Unopposed Motion for Extension of Time to Answer, giving Defendants until September 8, 2017 to respond to Plaintiff's Complaint. On August 7, 2017, Plaintiff filed a motion seeking to remand the case to the state court.

Because the issue of the appropriate forum for this case has not been finally resolved, and for the reasons set forth in the attached Memorandum in Support, the Defendants respectfully request that this Court stay the date on which the Defendants are required to answer, move, or otherwise respond to Plaintiff's Complaint, and grant the Defendants an extension of time of 60 days after the date on which removal is finally determined to answer, move, or otherwise respond to Plaintiff's Complaint.

Respectfully submitted,

/s/ Daniel J. Hyzak

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MEMORANDUM IN SUPPORT

On June 5, 2017, Plaintiff The City of Dayton filed a Complaint in the Montgomery County Court of Common Pleas, Case No. 2017 CV 02647, against Defendants Perry Fine, M.D., Scott Fishman, M.D., and Lynn Webster, M.D. (collectively, the “Defendants”), among other Defendants.

The Complaint is lengthy and complex, containing 236 pages and asserting six causes of action by the City of Dayton against twenty-three defendants.

On July 7, 2017, the Defendants Endo Health Solutions Inc. and Endo Pharmaceuticals Inc. filed a Notice of Removal to this Court, Case No. 3:17-cv-00229-TMR. (Doc. 1). On August 7, 2017, Plaintiffs filed a motion seeking to remand to state court.

It is in the best interest of the Parties and in the interest of judicial efficiency to avoid the possibility of litigating the same issues in two different courts. If the Defendants that have been properly served are required to respond to the Complaint before a final determination of removal is made, they risk having to answer, move, or otherwise respond in this Court and again in state court. Similarly, the Plaintiff could be required to respond to pleadings first in federal court and again in state court. Litigating issues in both forums would be costly to all parties, as well as an inefficient use of judicial resources.

Due to the length and complexity of the Complaint, the parties conferred and agreed to an initial extension of time through and including September 8, 2017. On July 17, 2017, this Court granted Defendants’ Unopposed Motion for Extension of Time to Answer, giving Defendants until September 8, 2017 to respond to Plaintiff’s Complaint.

The Parties have again conferred. The Plaintiff and the Defendants agree that the interests of efficiency and justice will be served by staying the September 8, 2017, deadline and having their originally agreed upon extension of time begin once the appropriate forum has been finally decided.

The Court's inherent power includes the "power to stay proceedings based on its authority to manage its docket efficiently." *Bds. of Trustees of the Ohio Laborers Fringe Benefit Programs v. O.C.I. Constr., Inc.*, No. 2:10-cv-550, 2011 WL 902246, at *3 (S.D. Ohio Mar. 14, 2011) (quotation omitted); *see also Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936) (same). Further, pursuant to Local Rule of Civil Procedure 7.3(a), counsel have consulted in good faith and this motion is unopposed.

The Defendants therefore respectfully request that the Court stay the September 8, 2017, deadline for them to respond to Plaintiff's Complaint pending final determination of removal, and grant a 60-day extension of time from the date of that final determination by which the Defendants must answer, move or otherwise respond to Plaintiff's Complaint.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing was electronically filed with the U.S. District Court, Southern District of Ohio, Western Division, on August 23, 2017, and served upon all parties who have appeared in this matter and registered with ECF via the court's electronic filing system.

/s/ Daniel J. Hyzak

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